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Message Text

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ACTION OES-07

INFO OCT-01 NEA-11 ISO-00 ACDA-12 CIAE-00 INR-10 IO-13
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C O N F I D E N T I A L TEHRAN 05442

E.O. 11652: GDS
TAGS: MNRC, IAEC, ENRG, TECH, IR
SUBJ: BILATERAL AGREEMENT FOR NUCLEAR COOPERATION--
RETRANSFER PROVISIONS

1. IN EMBASSY MEETING JUNE 4 WITH ETEMAD, HE RAISED THE RETRANSFER PROVISIONS IN CURRENT DRAFT AGREEMENT. HE SAID THAT U.S. APPROVAL OF PERMANENT TRANSFER TO THIRD COUNTRIES WAS COMPLETELY ACCEPTABLE. WHAT CONCERNED HIM, HE SAID, WAS NECESSITY OF U.S. APPROVAL OF EACH STEP WHEN IRAN ITSELF WAS THE ULTIMATE USER. FOR EXAMPLE, HE SAID, IRAN MIGHT PURCHASE YELLOW CAKE FROM THE U.S., SHIP IT TO FRANCE FOR ENRICHMENT, ELSEWHERE FOR FABRICATION, AND THEN TO IRAN FOR USE. CURRENT U.S. PRACTICE WOULD APPEAR TO CALL FOR MULTIPLE APPROVALS. THIS RAISES PROSPECT FOR DELAYS WHICH WOULD UNDERMINE SCHEDULES FOR FINAL FABRICATION AND INSERTION INTO REACTOR ON A TIMELY BASIS, IN IRAN. ETEMAD THEN ASKED MANZOOR TO DRAFT LANGUAGE TO COVER THIS SITUATION.

2. PROPOSED LANGUAGE GIVEN TO SCIATT FOLLOWING DAY BY MANZOOR FOLLOWS: BEGIN QUOTE: WITH REFERENCE TO THE MATERIAL TRANSFERRED BY THE U.S. PURSUANT TO THE AGREEMENT, THE PARTIES AGREE THAT SUCH MATERIAL MAY BE RETRANSFERRED FOR CONVERSION, ENRICHMENT UP TO TWENTY PERCENT IN THE ISOTOPE 235, FABRICATION, OR OTHER
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PROCESSING IN THE PREPARATION OF FUEL ELEMENTS FOR USE IN IRAN, PROVIDED THAT QUANTITIES OF NUCLEAR FUEL CORRESPONDING TO THE RETRANSFERRED MATERIAL ARE RETURNED TO IRAN AND, FURTHERMORE, PROVIDED THAT THE SAFEGUARDABLE BYPRODUCTS ARE LEFT IN OR SENT TO A COUNTRY WHICH HAS A SAFEGUARDS AGREEMENT WITH THE U.S. WITH REFERENCE TO RETRANSFER OF U.S. SUPPLIED MATERIAL

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BY IRAN, FOR USE, LONG TERM STORAGE, OR FINAL DISPOSAL IN A COUNTRY BEYOND IRAN'S JURISDICTION, THE U.S. WILL NOT WITHHOLD ITS AGREEMENT SAVE IN EXCEPTION CASES, PROVIDED THAT SUCH COUNTRY HAS A SAFEGUARDS AGREEMENT WITH THE U.S. IN SUCH EXCEPTION CASES WHERE THE U.S. WITHHOLDS ITS AGREEMENT TO THE RETRANSFER, IT WILL ADVISE IRAN OF THE REASONS FOR SUCH DECISION. END QUOTE.

3. WHILE IN EMBASSY VIEW, THE FIRST SENTENCE IS FAIR ATTEMPT TO COVER THE SITUATION DISCUSSED WITH DR. ETEMAD, IT IS NOT COMPLETELY ACCURATE, IN THAT QUANTITIES OF NUCLEAR FUEL RETURNED TO IRAN WHICH CORRESPOND TO THE RETRANSFERRED MATERIAL ARE NOT WELL DEFINED. URANIUM, AFTER LEAVING THE U.S. AND GOING, FOR EXAMPLE, TO EURODIF FOR UPGRADING, IS NOT IN THE SAME QUANTITY AND CERTAINLY NOT SAME COMPOSITION, AS THAT INSERTED INTO REACTOR, LESS SAFEGUARDABLE BY-PRODUCTS. CONCEPT HOWEVER, IS CLEAR ENOUGH AND WELL UNDERSTOOD BY BOTH PARTIES.

4. IN THE SECOND SENTENCE OF MANZOOR (TABIRI) FORMULATION, AEOI ADDRESS RETRANSFER OF U.S. SUPPLIED URANIUM WHICH FLOWS OTHER THAN INTO IRAN'S REACTORS, E.G. INTO THIRD COUNTRIES OR INTO THE U.S. WE DO NOT KNOW WHAT IS MEANT BY "USE" OF SUCH RETRANSFERRED MATERIAL BY THIRD COUNTRIES; HOWEVER, STORAGE AND/OR FINAL CONFIDENTIAL

DISPOSAL ARE SELF EVIDENT. "USE" COULD MEAN IRRADIATION AS BUT ONE INTERPRETATION, BY EMBASSY. EMBASSY BELIEVES SECOND SENTENCE WOULD ALLOW HANDLING OF SPENT FUEL IN SUCH A WAY AS TO UNDERMINE OTHER ASPECTS OF AGREEMENT.

5. SCIATT WAS ASSURED BY TABIRI IN SEPARATE TELCON THAT IF OVERLAP OF ANY KIND IS INFERRED FROM SECOND SENTENCE, LANGUAGE COULD BE CHANGED TO REMOVE SUCH INCORRECT INFERENCE. EMBASSY BELIEVES THAT, IF U.S. REQUIRES DELETION OF SECOND SENTENCE ALTOGETHER, WITH APPROPRIATE SUBSTITUTE LANGUAGE PROVIDED BY WASHINGTON, AEOI WOULD BE AGREEABLE.

6. PLEASE PROVIDE GUIDANCE SOONEST.
SULLIVAN

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